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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION No. 449 OF 2006

Machindra Piraji Bhore,)
Aged 61 years, 9 months)
Retired Pensioner, at)
Belapur, Kazi Chawl, near)
Vidya Prasarak High School
Belapur, Tal. & Dist.)
Thane, Navi Mumbai 400614) ... Petitioner

Vs.

Sheeladevi M. Bhore,)
Age 47 years, Pant Nagar)
Bldg. No.58, Room No.1715)
Ghatkopar (E) Mumbai 400075 ... Respondent

Applicant in person.

Mr. Prakash D. Gharge, Advocate for respondent.

Smt. V. R. Bhosale, APP for Respondent-State.

CORAM: J. N. PATEL,
AND
A. A. SAYED, JJ.

DATE : APRIL 26, 2007.

ORAL JUDGMENT:

. Heard the applicant who appears in person. The learned counsel for the respondent/wife proposed to dispose of this Revision Petition at the stage of admission.

2. The revision petitioner has filed this application, impugning the decision of the Family Court,

which has granted maintenance to the respondent/wife.

3. The admitted facts are, the petitioner married respondent on 14-6-1975 and thereafter the wife left the house within 21 days. It is the case of the applicant that he made all efforts to get his wife back, but because her father was policeman, he had not allowed her to get her back and her father had flatly refused to send her back, though the attempt was not only made by the applicant, but also by his colleagues. It is the case of the applicant that the wife filed false case against him and lodged various reports to the police station, and thereafter within a period of 3 months, they took customary divorce, and thereafter she initiated proceedings for maintenance, which was granted. The order of granting her maintenance was challenged in the High Court, but it was rejected. Thereafter, it appears that wife moved an application for enhancement, which was allowed and presently the petitioner is required to pay Rs.1,500/- per month to the respondent/wife from the date of order i.e. 30th June 2006. Aggrieved by this order, petitioner has approached this Court.

4. On the other hand, it is the case of the respondent/wife that the petitioner treated her with

cruelty and drove away from the matrimonial house. It is also contended by the respondent that the petitioner obtained customary divorce on stamp paper, contrary to her wishes and got remarried.

5. The petitioner in person submitted that his wife/respondent was quarrelsome in nature. She was not prepared to stay and reside with him and was under the influence of her parents and her father being a policeman had put all sorts of harassment and humiliation, by filing false report and criminal prosecution. He candidly admitted before us that he obtained customary divorce from her and married with another woman, from whom he has 2 children.

6. It is the contention of the petitioner that the order of enhancement of maintenance shocked him. It was a surprise. He assails the impugned order, on the ground that the Magistrate ignored the evidence on record and passed the impugned order.

7. It is further submitted that as he is retired and he has liability to maintain his second wife, children and himself in the amount of pension, the order deserves to be set aside and quashed.

8. The learned counsel for the respondent submitted that the Family Court has taken into consideration the minimum requirement of the wife and enhanced the maintenance which barely meets the necessities of life of a person, and therefore, it does not call for any interference. It is submitted that conduct of the petitioner in driving away the respondent and obtaining customary divorce, which is not valid in the eyes of law and having married for the second time, is sufficient to show that the wife was treated with cruelty and driven out from her matrimonial home. Even the petitioner has refused and neglected to maintain her, though he has sufficient means, presently by way of pension, and therefore, the order does not call for any interference.

9. We have gone through the evidence on record. We find that the learned Judge has taken into consideration the evidence on record, which clearly goes to show that the respondent/wife has been able to make out a case for enhancement and therefore, the contention of the petitioner/husband that the learned trial Court totally ignored the evidence on record, cannot be accepted. We do not find that there is any illegality or error committed by the trial Court in enhancement of maintenance to Rs.1,500/- per month. Even the petitioner admits before this Court, when a specific

query was made, that for himself he requires Rs.5,000/- per month for maintenance, which hardly meets the bare necessities of life and that the amount of Rs.1,500/- is not sufficient in the city of Mumbai, to meet the basic necessities, required for a person to survive. Therefore, in the facts and circumstances of the case, we find that the impugned order does not call for any interference. The Criminal Revision Application is dismissed accordingly.

Sd/-
[A. A. SAYED, J.]

Sd/-
[**J. N. PATEL, J.]**